IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.494 OF 2005

Shri K.Gopalkrishnan : Petitioner

V/s.

The Shipping Corporation of India Ltd. : Respondent

...

Mr.Vijay G. Rege for the petitioner.

Mr.S.K.Talsania with Mr.Uttam i/b. M/s.Mulla & Mulla and Craigie Blunt & Caroe for the respondent.

...

CORAM : H.L.GOKHALE & S.R.DONGAONKAR,JJ.

DATE : MARCH 13, 2006.

P.C.

1. Heard Mr.Rege in support of this petition. Mr.Talsania appears for the respondent.

2. The petitioner has filed this petition to claim compensation to the tune of Rs.48,44,200/- plus certain additional amount totalling to Rs.51,94,200/- under clause 103 of the agreement which the respondent-Shipping Corporation of India Ltd. has entered into. The case of the petitioner is that while working on the ship, he suffered an injury whereby he was incapacitated. He is relying upon a clause which provides that in the event of

permanent incapacity for sea service, 120 months' wages, subject to a minimum of Rs.10 lakhs is to be paid.

3. The defence of the respondent is that it was not a case of injury. The petitioner suffered a heart problem and subsequently had undergone angioplasty. It is also their case that it did not happen while on the ship, but at home, though the petitioner has tried to relate otherwise. The respondent has paid an amount of Rs.3.5 lakhs. These are all disputed facts. The proper remedy for the petitioner will be to file a suit and claim the amount he is entitled to. We cannot award such amount on the ground of breach of the agreement in a Writ Petition.

4. Accordingly, the Writ Petition is dismissed.

H.L. GOKHALE, J.

S.R.DONGAONKAR, J.